

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ZIA TRUST COMPANY, as Personal  
Representative of DYLAN CAUSEY, minor son  
of JODIE OCKLE, and sole beneficiary  
of MEGAN DYLAN CAUSEY, deceased,  
Plaintiffs,

v.

CIV 08-0077 KBM/CEG

CARLOS MONTOKA,  
and COUNTY OF DONA ANA,  
Defendants

**AMENDED ORDER APPOINTING GUARDIAN AD LITEM**

THIS MATTER having come before the Court for the appointment of a Guardian ad litem to assist the Court in evaluating a proposed settlement of this pending litigation benefiting Dylan Causey, a minor child, the Court having reviewed the file and being otherwise fully advised, hereby finds:

1. A Guardian ad litem should be appointed by this Court in connection with the Court's consideration of matters relating to settlement of a minor's claims in this matter.
2. The Guardian ad litem should be appointed to investigate on behalf of the Court into the fairness and reasonableness of a proposed settlement and its effect on the minor.
3. As the Court appointed Guardian ad litem, F. Michael Hart shall be deemed a party entitled to participate, to have notice of all proceedings, and to receive copies of all pleadings and correspondence among the parties.
4. The Guardian ad litem shall have access to all medical and other records of the minor child which are relevant to the issues in this case.

5. At any hearing in this case, the Guardian ad litem will be entitled to present his report to the Court as testimony or as otherwise directed to informally report to the Court on the nature and scope of his investigation, his conclusions and his recommendations regarding both their fairness and reasonableness of the proposed settlement and the manner in which the settlement monies shall be held/used on behalf of the minor child.

6. The Guardian ad litem's appointment does not contemplate representation of the minor as an advocate, but only as a functionary of the Court.

7. The Guardian ad litem's responsibilities under this appointment are to the Court, and not to the child. The child in this matter is already represented by competent counsel, and the Guardian Ad litem under this appointment should not be requested to invade or interfere with Plaintiffs' counsel's responsibility to adequately and effectively represent the child.

8. There are strong public policy reasons to grant immunity to the Guardian ad litem in this case, who is acting as an "arm of the Court" and is performing an essential role in this Court's administration of justice, as the Judge's assistant.

9. All immunities and privileges available to the Guardian ad litem, as articulated by the New Mexico Supreme Court in Collins v. Tabet, 111 N.M. 391, 806 P.2d 40 (1991) should be extended to the Guardian ad litem in this matter.

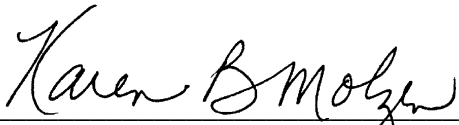
10. F. Michael Hart is qualified to perform as a Guardian ad litem in this matter.

THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED, F. Michael Hart shall be appointed Guardian ad litem for Dylan Causey, as an "arm of the Court", appointed in connection with this Court's consideration of a settlement involving a minor child. F. Michael Hart shall be absolutely immune from any liability for his actions taken pursuant to this appointment, in so far as his conduct in the case is as a result of an investigation on behalf of this

Court into the fairness and reasonableness of the settlement in its effect on the minor child. The Guardian ad litem's duties and obligations in this Court are owed to the Court, and not to the minor child.

This appointment of F. Michael Hart as Guardian Ad litem is intended to convey upon him all of the immunities and protections allowed or provided under Collins v. Tabet, 111 N.M. 391, 806 P.2d 40 (1991).

Guardian ad litem fees shall be paid from the settlement funds.

  
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HONORABLE KAREN B. MOLZEN  
U.S. MAGISTRATE JUDGE  
Presiding by Consent

Submitted by:

*/s/, Richard A. Sandoval*  
The Law Office of Richard A. Sandoval  
6565 Americas Parkway N.E. Suite 200  
Albuquerque, NM 87107  
(505) 563-5848

Approved by:  
*/s/, Kevin M. Brown*  
KEVIN M. BROWN  
Attorney for Defendants  
2901 Juan Tabo Blvd., N.E., Suite 208  
Albuquerque, NM 87112  
(505) 292-9676